

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ERIC PARR,) CIVIL NO. 10-00499 SOM-KSC
)
Plaintiff,) FINDINGS AND
) RECOMMENDATION TO DENY
vs.) WITHOUT PREJUDICE
) PLAINTIFF'S MOTION FOR
ZAFFRON, a domestic general) JUDGMENT BY DEFAULT
partnership,)
)
Defendant.)
)

FINDINGS AND RECOMMENDATION TO DENY WITHOUT PREJUDICE
PLAINTIFF'S MOTION FOR JUDGMENT BY DEFAULT

Before the Court is Plaintiff Eric Parr's Motion for Judgment by Default ("Motion"), filed November 17, 2010.

The Court finds this matter suitable for disposition without a hearing pursuant to Rule 7.2(d) of the Local Rules of Practice of the United States District Court for the District of Hawaii ("Local Rules"). After reviewing the Motion and the supporting memorandum, the Court HEREBY FINDS AND RECOMMENDS that the Motion be DENIED WITHOUT PREJUDICE.

On August 30, 2010, Plaintiff commenced the instant action. Plaintiff now moves for default judgment against Defendant Zaffron. This Motion is premature, insofar as an entry of default must precede a motion for default judgment. Although Plaintiff's counsel has represented that the Clerk entered default on October 5, 2010, no such entry appears on the docket. Indeed, the Clerk would not have entered default one day following the filing of a return of service reflecting a service date of October 3, 2010. Doc. No. 4. Until Plaintiff complies with the applicable rules for obtaining default, the Court shall not entertain any motions for default judgment. Accordingly, the Court recommends that the district court DENY WITHOUT PREJUDICE Plaintiff's Motion for Judgment by Default.

IT IS SO FOUND AND RECOMMENDED.

Dated: Honolulu, Hawaii, November 17, 2010.




Kevin S.C. Chang
United States Magistrate Judge

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